

are available, as a single-year adjustment.

(ii) *If the ABC has been exceeded.* If the ABC has been exceeded, then a single year adjustment to the recreational ACT will be made, in the following fishing year, or as soon as possible thereafter, once catch data are available, as described in paragraph (d)(2)(ii)(A) of this section. In addition, adjustments to the recreational management measures, taking into account the performance of the measures and conditions that precipitated the overage, will be made in the following year.

(A) *Adjustment to Recreational ACT.* If an adjustment to the following year's Recreational ACT is required, then the ACT will be reduced by the exact amount, in pounds, of the product of the overage, defined as the difference between the recreational catch and the recreational ACL, and the payback coefficient, as specified in paragraph (d)(2)(ii)(B) of this section.

(B) *Payback coefficient.* The payback coefficient is the difference between the most recent estimate of biomass and  $B_{MSY}$  (i.e.,  $B_{MSY} - B$ ) divided by one-half of  $B_{MSY}$ .

(3) *If biomass is above  $B_{MSY}$ .* If the most recent estimate of biomass is above  $B_{MSY}$  (i.e.,  $B/B_{MSY}$  is greater than 1.0), then adjustments to the recreational management measures, taking into account the performance of the measures and conditions that precipitated the overage, will be made in the following fishing year, or as soon as possible thereafter, once catch data are available, as a single-year adjustment.

(e) *State/Federal disconnect AM.* If the total catch, allowable landings, commercial quotas, and/or RHL measures adopted by the ASMFC Summer Flounder, Scup and Black Sea Bass Management Board and the MAFMC differ for a given fishing year, administrative action will be taken as soon as possible to revisit the respective recommendations of the two groups. The intent of this action shall be to achieve alignment through consistent state and Federal measures such that no differential effects occur on Federal permit holders.

[76 FR 60632, Sept. 29, 2011, as amended at 78 FR 76763, Dec. 19, 2013]

#### § 648.124 Scup commercial season and commercial fishery area restrictions.

(a) *Southern Gear Restricted Area—(1) Restrictions.* From January 1 through March 15, all trawl vessels in the Southern Gear Restricted Area that fish for or possess non-exempt species as specified in paragraph (a)(2) of this section must fish with nets that have a minimum mesh size of 5.0-inch (12.7-cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For trawl nets with codends (including an extension) of fewer than 75 meshes, the entire trawl net must have a minimum mesh size of 5.0 inches (12.7 cm) throughout the net. The Southern Gear Restricted Area is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

SOUTHERN GEAR RESTRICTED AREA

Point	N. lat.	W. long.
SGA1 .....	39°20'	72°53'
SGA2 .....	39°20'	72°28'
SGA3 .....	38°00'	73°58'
SGA4 .....	37°00'	74°43'
SGA5 .....	36°30'	74°43'
SGA6 .....	36°30'	75°03'
SGA7 .....	37°00'	75°03'
SGA8 .....	38°00'	74°23'
SGA1 .....	39°20'	72°53'

(2) *Non-exempt species.* Unless otherwise specified in paragraph (d) of this section, the restrictions specified in paragraph (a)(1) of this section apply only to vessels in the Southern Gear Restricted Area that are fishing for or in possession of the following non-exempt species: Longfin squid; black sea bass; and silver hake (whiting).

(b) *Northern Gear Restricted Area 1—(1) Restrictions.* From November 1 through December 31, all trawl vessels in the Northern Gear Restricted Area 1 that fish for or possess non-exempt species as specified in paragraph (b)(2) of this section must fish with nets of 5.0-inch (12.7-cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For trawl nets with codends (including an extension) of fewer than 75 meshes, the entire trawl

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net must have a minimum mesh size of 5.0 inches (12.7 cm) throughout the net. The Northern Gear Restricted Area 1 is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

NORTHERN GEAR RESTRICTED AREA 1

Point	N. lat.	W. long.
NGA1 .....	41°00'	71°00'
NGA2 .....	41°00'	71°30'
NGA3 .....	40°00'	72°40'
NGA4 .....	40°00'	72°05'
NGA1 .....	41°00'	71°00'

(2) *Non-exempt species.* Unless otherwise specified in paragraph (d) of this section, the restrictions specified in paragraph (b)(1) of this section apply only to vessels in the Northern Gear Restricted Area 1 that are fishing for, or in possession of, the following non-exempt species: Longfin squid; black sea bass; and silver hake (whiting).

(c) *Transiting.* Vessels that are subject to the provisions of the Southern and Northern GRAs, as specified in paragraphs (a) and (b) of this section, respectively, may transit these areas provided that trawl net codends on board of mesh size less than that specified in paragraphs (a) and (b) of this section are stowed and not available for immediate use as defined in §648.2.

(d) [Reserved]

(e) *Addition or deletion of exemptions.* The MAFMC may recommend to the Regional Administrator, through the framework procedure specified in §648.130(a), additions or deletions to exemptions for fisheries other than scup. A fishery may be restricted or exempted by area, gear, season, or other means determined to be appropriate to reduce bycatch of scup.

(f) *Exempted experimental fishing.* The Regional Administrator may issue an exempted experimental fishing permit (EFP) under the provisions of §600.745(b), consistent with paragraph (d)(2) of this section, to allow any vessel participating in a scup discard mitigation research project to engage in any of the following activities: Fish in the applicable gear restriction area; use fishing gear that does not conform

to the regulations; possess non-exempt species specified in paragraphs (a)(2) and (b)(2) of this section; or engage in any other activity necessary to project operations for which an exemption from regulatory provision is required. Vessels issued an EFP must comply with all conditions and restrictions specified in the EFP.

(1) A vessel participating in an exempted experimental fishery in the Scup Gear Restriction Area(s) must carry an EFP authorizing the activity and any required Federal fishery permit on board.

(2) The Regional Administrator may not issue an EFP unless s/he determines that issuance is consistent with the objectives of the FMP, the provisions of the Magnuson-Stevens Act, and other applicable law and will not:

- (i) Have a detrimental effect on the scup resource and fishery;
- (ii) Cause the quotas for any species of fish for any quota period to be exceeded;
- (iii) Create significant enforcement problems; or
- (iv) Have a detrimental effect on the scup discard mitigation research project.

[76 FR 60633, Sept. 29, 2011, as amended at 77 FR 16480, Mar. 21, 2012; 79 FR 52580, Sept. 4, 2014]

§ 648.125 Scup gear restrictions.

(a) *Trawl vessel gear restrictions*—(1) *Minimum mesh size.* No owner or operator of an otter trawl vessel that is issued a scup moratorium permit may possess 500 lb (226.8 kg) or more of scup from November 1 through April 30, or 200 lb (90.7 kg) or more of scup from May 1 through October 31, unless fishing with nets that have a minimum mesh size of 5.0-inch (12.7-cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, and all other nets are stowed and not available for immediate use as defined in §648.2. For trawl nets with codends (including an extension) of fewer than 75 meshes, the entire trawl net must have a minimum mesh size of 5.0 inches (12.7 cm) throughout the net. Scup on board these vessels must be stowed separately and kept readily available for